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tal rights. "There are, however, some things the legislature cannot do, although not prohibited by the constitution, and the law books are replete with such cases. Some things are so repugnant to the principles of our government and to reason and common sense, that the legislature cannot enact them into valid laws. The legislature cannot declare presumptively honest citizens to be presumptively dishonest; or the daily and presumptively honest transactions of life to be presumptively fraudulent transactions, under the thin guise of a change in the rules of evidence. Every citizen under our constitution is entitled to the presumption of honesty in his daily transactions, and he who attacks his honesty is bound to prove his dishonesty and his fraud, before he can deprive him either of his liberty, his property, or his good name." It is also in violation of express constitutional provisions because it fails to provide that "due process of law" to which every citizen under our constitution is entitled.

DECORUM OF ATTORNEY IN ARGUMENT.—PROPRIETY OF APPEALS TO THE PATHETIC OR SENTIMENTAL.—It was some time ago judicially determined that it is not reversible error for counsel to weep before the jury. In a recent case in Iowa—*State v. Burns* (1903), — Iowa —, 94 N. W. Rep. 238, it is held not error that counsel in his argument resorted to pathos in his endeavor to sway the feelings of the jury. "Within reasonable limits," said the court, "the language of counsel in argument is privileged, and he is permitted to express his own ideas in his own way, so long as they may fairly be considered relevant to the case which has been made. No lawyer has the right to misrepresent or misstate the testimony. On the other hand he is not required to forego all the embellishments of oratory, or to leave uncultivated the fertile field of fancy. It is his time-honored privilege to—

'Drown the stage in tears,
Make mad the guilty and appall the free,
Confound the ignorant and amaze, indeed,
The very faculties of eyes and ears.'

"Stored away in the property room of the profession are moving pictures in infinite variety, from which every lawyer is expected to freely draw on all proper occasions. They give zest and point to the declamation, relieve the tediousness of the juror's duties, and please the audience, but are not often effective in securing unjust verdicts. The sorrowing, 'gray-haired parents' upon the one hand, and the broken-hearted 'victim of man's duplicity,' upon the other, have adorned the climax and peroration of legal oratory from a time 'whence the memory of man runneth not to the contrary,' and for us at this late day to brand their use as misconduct would expose us to just censure for interference with ancient landmarks. See *Dowdell v. Wilcox*, 64 Iowa 724, 21 N. W. 147."

LIABILITY OF UNITED STATES FOR INJURY FROM ELEVATOR IN ITS PUBLIC BUILDINGS — IMPLIED CONTRACT TO OPERATE SAFELY — CASE "SOUNDING IN TORT."—By an act of congress approved March 3, 1887 (U. S. Comp. Stat. 1901, p. 752) provision is made for the adjudication of "all claims founded upon the constitution of the United States, or any law of congress